

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lauren Fredston-Hermann	Team: Team # 4	CCRB Case #: 200614489	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 08/13/2006 6:55 AM	Location of Incident: § 87(2)(b)	Precinct: 32	18 Mo. SOL 2/13/2008	EO SOL 2/13/2008	
Date/Time CV Reported Tue, 10/31/2006 8:40 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/31/2006 8:40 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM William Mattocks	29325	939119	PSA 6
2. POM Christoph Deflorio	23057	932537	032 PCT
3. POM Victor Adames	07823	923485	032 PCT
4. DTS Severino Concordia	00397	910614	PSA 6
5. POM Peter Guido	23302	922464	032 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Richard Pengel	17040	933161	032 PCT
2. LT Kevin Fox	00000	893994	PSA 6
3. POM Daniel Crisan	25005	928128	PSA 6
4. POM Nathan Mole	08657	911121	028 PCT
5. POM William Coyle	08248	918895	028 PCT
6. POM Syed Shah	12385	926458	PSA 6
7. DTS Walter Szachacz	05005	909475	ESS 03

Officer(s)	Allegation	Investigator Recommendation
A.POM William Mattocks	Force: PO William Mattocks used physical force against § 87(2)(b)	§ 87(2)(b)
B.DTS Severino Concordia	Force: Det. Severino Concordia used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Victor Adames	Force: PO Victor Adames used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Peter Guido	Force: PO Peter Guido used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Christoph Deflorio	Force: PO Christopher Deflorio used physical force against § 87(2)(b)	§ 87(2)(b)

Synopsis

On August 13, 2006, at 6:55AM, § 87(2)(b) returned to her apartment located at § 87(2)(b) in Manhattan but was unable to enter because the lock was broken. Believing that her fiancé, § 87(2)(b) who was already inside of the apartment had locked her out, she used her neighbor § 87(2)(b) phone to call the police. By the time PO William Mattocks and Det. Severino Concordia responded, the apartment door had been opened by the superintendent of the building, § 87(2)(b) and § 87(2)(b) and § 87(2)(b) were standing in the hallway of the building, but PO Mattocks still informed § 87(2)(b) that he had to leave the apartment. § 87(2)(b) told PO Mattocks that he was not going to leave, and walked into § 87(2)(b)'s apartment and then into the bathroom, followed by PO Mattocks. PO Mattocks grabbed § 87(2)(b) right arm in order to try and pull him out of the bathroom, and called for back up (Allegation A). Three to nine additional officers responded, namely PO Victor Adames, PO Peter Guido, PO Christopher DeFlorio and PO Richard Pengel, and all of the officers pulled § 87(2)(b) and used their fists to punch him on the left side of his rib cage (Allegations B-E). § 87(2)(b) was subsequently arrested by PO Mattocks and charged with § 87(2)(b).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) filed this complaint by phone on October 31, 2006 (encl. 7A-B) after spending 60 days at Riker's Island City Jail. The following statement is comprised of a November 13, 2006 phone statement (encl. 8A-B) and his CCRB interview on December 14, 2007 (encl. 8C-E). Also present for § 87(2)(b) CCRB interview was § 87(2)(b), the intern of his attorney from § 87(2)(b).

On August 12, 2006, § 87(2)(b) and his fiancé, § 87(2)(b) attended her friend's birthday party from which § 87(2)(b) left first, returning at 5AM on August 13, 2006, to § 87(2)(b)'s apartment, located at § 87(2)(b) in Manhattan. When § 87(2)(b) came home at 6:55AM, she rang the doorbell. Because the lock is "faulty" § 87(2)(b) was unable to open the door for her; she thought that he had intentionally locked her out. § 87(2)(b) and her unidentified friend yelled at him to open the door, saying, "He doesn't have squatter's rights!" The lease to the apartment is in § 87(2)(b)'s name; § 87(2)(b) has lived there for seven years, and in his CCRB interview he explained that he and § 87(2)(b) often joke about him being a squatter. § 87(2)(b) then told § 87(2)(b) to call the police and ask the superintendent, § 87(2)(b) to open the door. § 87(2)(b) was able to unlock the door after 2-5 minutes of working with the lock. § 87(2)(b) barefoot and wearing a gray valor sweat suit, went into the hallway of the building, where he and § 87(2)(b) immediately began arguing.

As § 87(2)(b) tried to get § 87(2)(b) and § 87(2)(b) to move their argument to § 87(2)(b)'s apartment, PO1 (identified through the investigation as PO William Mattocks) entered the 2nd floor hallway of the apartment building, and § 87(2)(b) realized that § 87(2)(b) must have called the police. Only 15-20 minutes had passed since § 87(2)(b) had arrived at the apartment. Although in his phone statement § 87(2)(b) was only able to describe PO Mattocks as a Black male officer with an afro, in his CCRB statement he added that PO Mattocks was about 30 years old, 5'11" tall and 185 lbs.

PO Mattocks asked § 87(2)(b) a few questions (he did not recall the content of those questions) and § 87(2)(b) showed him some papers. In his CCRB interview, § 87(2)(b) admitted that § 87(2)(b) had an order of protection against him at one point. When asked when the order of protection was issued, however, § 87(2)(b) stated that he was not sure if there had been an order of protection at all, although one had possibly been issued in 2003 or 2004. He did not know what the particular restrictions would have been, and did not know if it was valid at the time of incident.

Then PO Mattocks informed § 87(2)(b) that he would have to leave the apartment. § 87(2)(b) told PO Mattocks, "I'm not going anywhere, this is my apartment," and walked through the already open apartment door into the cluttered apartment hallway and then into his bathroom. § 87(2)(b) admitted that his actions probably, "looked like to him [PO Mattocks] like I was trying to run inside." The bathroom is located about seven feet from the front door, and is about 5' by 5'. Still telling him to leave the apartment, PO Mattocks followed § 87(2)(b) into his bathroom. Then PO Mattocks grabbed § 87(2)(b) right arm, tried to pull him out of the bathroom and called for backup on his radio.

Immediately, 3-4 additional uniformed officers entered the bathroom and tried to pull him out of the bathroom (over the various statements provided, § 87(2)(b) alternately stated that 5-6 and even 9 officers from the 32nd Precinct and from PSA2 were inside of the bathroom at this point). § 87(2)(b) provided descriptions for three of the officers who were inside of the bathroom: PO1, a Hispanic male with a crew cut, 5'10" and 175 lbs, PO2, a White male, 6'1" tall with short curly hair and PO3, a White male with brown hair, about 32 years old and 6'3" tall. The investigation determined that PO Christopher DeFlorio, PO Peter Guido and PO Victor Adames were the three additional officers in the bathroom, however none of the officers match the descriptions conclusively.

§ 87(2)(b) held the shower curtain rod and towel rod to prevent the officers from removing him from the bathroom. Specifically, the officers pulled and punched § 87(2)(b) 45-50 times over the course of 20 minutes with their fists on the left side of his rib cage; the officers never touched his face or used batons. *(Every time during his CCRB interview that § 87(2)(b) discussed the force used to remove him from the bathroom, he punched himself in the ribs at least 15 times, and forcefully enough so that it is audible on the audio cassette.)* § 87(2)(b) repeatedly asked the officers why they were punching him and informed them, "I'm not going anywhere." Some of the officers stood on the toilet as this occurred. § 87(2)(b) did not know where § 87(2)(b) was located while he was in the bathroom with the officers, and stated that officers would not let her enter the apartment, although it is unclear how he obtained this information.

PO3 placed handcuffs on § 87(2)(b) right wrist, and then § 87(2)(b) allowed himself to be handcuffed. § 87(2)(b) never "swung" at an officer. § 87(2)(b) was able to partially walk as PO3 dragged him out of the apartment and to the police vehicles outside. § 87(2)(b) was unable to explain exactly how that officer was holding him at the time. After walking barefoot while walking on some glass on the stoop and in the street, § 87(2)(b) feet became scratched and bled. § 87(2)(b) remembered that some people (he did not remember who) were standing on the stoop outside of the building, and two marked patrol cars and one dark brown Impala were parked outside. § 87(2)(b) yelled to someone across the street, "Yo, call my mother!" and yelled out his mother's cell phone number before being placed in a patrol car. An ambulance was called, and EMS responded 30 minutes later. An EMS worker informed § 87(2)(b) that he did not need to go to the hospital, but § 87(2)(b) requested to go anyway, so EMS transported him to § 87(2)(b). § 87(2)(b) went to the hospital and attempted to give him food, but she left when the officers would not permit her to do. § 87(2)(b) did not know which officers were with him at the hospital. He had an MRI and doctors put band-aids on his feet before he was transported to the precinct, where an officer mentioned something about sniffing angel dust. § 87(2)(b) said, "I don't know what you're talking about, no one was smoking dust. I don't do drugs." § 87(2)(b) lay down on a bench and had an asthma attack, and was subsequently taken back to § 87(2)(b). When he finally returned to the precinct, PO Mattocks fingerprinted him. § 87(2)(b) remembered that PO Mattocks had sustained an injury to his hand, although he did not specify how PO Mattocks was injured.

§ 87(2)(b) stated that he sustained injuries to his torso and in particular to his ribs, which were red and felt as if they were broken and was treated twice that night at § 87(2)(b). He did not return to the hospital for further treatment.

§ 87(2)(b) mentioned that he has since been on Zoloft. § 87(2)(b) stated that that evening he had not gotten "physical" with his girlfriend, taken any drugs, and that although he had had a mixed drink was not intoxicated at the time of incident. He stated that he has filed a civil suit.

Results of Investigation

Witness Statements

§ 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on February 8, 2007 (encl. 9A-D). On August 13, 2006, § 87(2)(b) left a party with an unnamed friend who was planning to retrieve baby clothes from her apartment. § 87(2)(b)'s fiancée, § 87(2)(b) had left the same party a few hours before also to go to her apartment (they live together, although the apartment is in her name and she has lived there for 19 years). § 87(2)(b) and her friend walked to her apartment, located at § 87(2)(b), in Manhattan, arriving at 6:55AM. Both § 87(2)(b) and § 87(2)(b) had a couple of drinks at the party.

Once at her apartment, § 87(2)(b) was unable to open the door to her apartment with her key. § 87(2)(b) then opened the apartment door from inside and slammed it shut before they could enter, possibly because he had seen § 87(2)(b) with her girlfriend, and did not want them to hang out inside of the apartment. § 87(2)(b)'s friend then said that she would come back later to get the baby clothes, and left the location. § 87(2)(b) loudly told § 87(2)(b) to open the door, prompting her neighbors, including § 87(2)(b) and § 87(2)(b), to exit their apartments. § 87(2)(b) told § 87(2)(b) "If you don't let me in, I'm going to call the cops." § 87(2)(b) also thought that the lock might be broken, and § 87(2)(b) gave her permission to use her phone to call the police and have them make § 87(2)(b) let her in. § 87(2)(b) told the 911 operator, "I'm locked out of my apartment. I can't get into my apartment. My fiancé is in there, and he is not letting me in."

§ 87(2)(b) the superintendent of the building, also exited his apartment and approached them in the hallway. § 87(2)(b) did not remember whether § 87(2)(b) tried to open her door, but remembered that § 87(2)(b) said through the door, "Is that you § 87(2)(b)?" Upon confirming that § 87(2)(b) was outside, § 87(2)(b) opened the door, and § 87(2)(b) yelled at him, "You didn't open the door!" § 87(2)(b) was mad because § 87(2)(b) acknowledged § 87(2)(b) when he had ignored her, and they began arguing loudly enough that § 87(2)(b) told them to take it inside. While they were still in the hallway, however, PO1 (identified through the investigation as PO William Mattocks) and PO2 (identified through the investigation as Det. Severino Concordia) arrived. She described PO Mattocks as a uniformed Black male, 6' tall with a large build, short hair and no glasses or facial hair, and Det. Concordia as a uniformed White or Hispanic male, light-skinned, with straight hair and shorter than PO Mattocks. At this point, § 87(2)(b) described herself as, "tired, a little tipsy... very loud" but "happy" to see the officers because she did not like how § 87(2)(b) was treating her. She also stated, however, that she did not need the police by this time because she only wanted to enter her apartment and go to sleep, and § 87(2)(b) had already opened the door. Regardless, she immediately showed PO Mattocks a piece of paper on which someone had written "Domestic Violence" with a hotline number next to it (she had received the paper after a previous "incident" with § 87(2)(b) a few months before), and PO Mattocks and Det. Concordia entered her apartment. She was not sure where § 87(2)(b) was at this point, although she remembered hearing him tell the officers repeatedly, "This is my apartment." She did not hear how the officers responded, and then followed them inside of her apartment.

She found PO Mattocks, Det. Concordia and § 87(2)(b) in the apartment bathroom; she did not know why they went in there, or who entered first. § 87(2)(b) was still saying, "This is my apartment! This is my apartment! I live here!" Then 8-10 additional officers arrived, most of whom were in uniform. As she was in the hallway of her apartment, trying to explain that she had not called the police for "all of this" but simply to enter her apartment, one of the responding officers intentionally knocked her down. She was not sure why she was knocked down, and thought maybe that the officers were trying to enter the bathroom. When she was knocked down she was about 10 feet from the bathroom door, but still had been able to see § 87(2)(b) "tussling" with officers in the bathroom. § 87(2)(b) held onto the shower rod while PO Mattocks, Det. Concordia and other officers hit him around his ribs, although she did not recall what the officers used to hit him.

§ 87(2)(b) then left and stood in the hallway in front of § 87(2)(b) apartment with § 87(2)(b) § 87(2)(b) and § 87(2)(b) and listened to the “tussling” and “confusion” emanating from her apartment. They stood there for 15-20 minutes, facing her apartment though unable to see inside until § 87(2)(b) was carried out by several uniformed officers (she could not recall who or how many). § 87(2)(b) was not sure if any part of § 87(2)(b) body was touching the floor, although she remembered that he was not wearing shoes. She thought that he was injured because she had heard and seen them fighting, although she did not see specific injuries. Another officer, who she described as a White or Hispanic male in plainclothes with black or dark hair, a mustache and no glasses, asked § 87(2)(b) for ID, and another unidentified officer asked § 87(2)(b) for § 87(2)(b) ID. § 87(2)(b) began to search through § 87(2)(b) § 87(2)(b) wallet for his ID, but the unidentified officer said, “Let me find it, you can’t find it fast enough” and then found the ID in his wallet.

§ 87(2)(b) went to § 87(2)(b) and found § 87(2)(b) in a wheelchair. When she returned to her apartment, § 87(2)(b) determined that officers had broken the glass of the downstairs door to enter the building, and that everything was knocked over in her bathroom, the shower rod was broken off of the wall and the vanity had to be replaced.

§ 87(2)(b) did not know if § 87(2)(b) had taken drugs that evening. She did not know if any officer was injured. § 87(2)(b) stated that she would not be able to recognize the officer who knocked her down, and had no complaint against him. § 87(2)(b) mentioned that she has called the police before on § 87(2)(b) for another “incident.”

§ 87(2)(b)

§ 87(2)(b) provided the following phone statement on January 24, 2007 (encl. 10A-B).

At some point in August 2006, § 87(2)(b) was woken up shortly after 6AM by § 87(2)(b) knocking on his door and ringing his doorbell. § 87(2)(b) exited his apartment and heard banging on the front door of the building. He ran downstairs and found police trying to enter the building by breaking the glass on the front door. The door is made of glass and metal, and the police had already broken one side of the glass; § 87(2)(b) let them in so that they would not destroy the door. In total, § 87(2)(b) let in about 4-5 officers, including PO1, a chubby Black male who he described as 5’10” to 6’ tall in his late 20s who had been in front. The officers and § 87(2)(b) went upstairs, and PO1 spoke to § 87(2)(b) as she stood outside of the open door to her apartment. § 87(2)(b) told PO1 that she wanted § 87(2)(b) out of her apartment because of something to do with missing money from a bank account. At the time, § 87(2)(b) was on the steps about 3-4’ away from § 87(2)(b) who appeared to be frustrated and “fed up.” § 87(2)(b) believed that § 87(2)(b) had called the police because § 87(2)(b) would not let § 87(2)(b) inside of the apartment.

A short Middle Eastern male police officer, PO2, was already inside of § 87(2)(b)’s apartment, trying unsuccessfully to restrain § 87(2)(b) inside of the apartment. § 87(2)(b) was throwing around PO2 like “A leaf in the wind.” Based upon his multiple previous experiences of witnessing § 87(2)(b) on PCP, § 87(2)(b) believed that § 87(2)(b) was on PCP at the time, and that § 87(2)(b) was either also on PCP or just coming off of it. After speaking with § 87(2)(b) PO1 entered the apartment and § 87(2)(b) spoke to § 87(2)(b) about the incident outside of the apartment in the hallway, which is about 4’ wide and 100’ long. There are 16 apartments on each floor, 5 floors in the building, and 84 units total. PO1 told § 87(2)(b) “Put something on, you’ll have to leave. Get some clothes on.” § 87(2)(b) responded, “I’m not going anywhere, this is my house. I’m the king in here.” They spoke for about 3-4 minutes, until § 87(2)(b) grabbed hold of the frame of the bathroom door. § 87(2)(b) told § 87(2)(b) “Just leave, just leave” and entered the apartment. § 87(2)(b) then heard the sounds of a struggle emanating from inside of the apartment, and § 87(2)(b) said, “Please don’t hurt him, just let him go.” By this point about 9-10 officers had entered the apartment, who “were going through hell to hold him... he § 87(2)(b) was still throwing them around.” The police were eventually able to restrain § 87(2)(b) although § 87(2)(b) was unable to see exactly how. About 8-10 tenants had also exited their apartments to stand in the hallway, including § 87(2)(b) of § 87(2)(b). § 87(2)(b) was unable to remember additional names of witnesses.

§ 87(2)(b) was perspiring when the police escorted him outside, although he had no visible injuries. PO1 and PO2 appeared “whipped.”

§ 87(2)(b)

§ 87(2)(b) was identified as a witness by § 87(2)(b) and § 87(2)(b). § 87(2)(b) provided the following phone statement on January 29, 2007 (encl. 11A). She described her relationship with § 87(2)(b) as that of an acquaintance in that they say “hi” when they see each other, but are not friends.

On August 13, 2006, soon after § 87(2)(b) heard § 87(2)(b) and § 87(2)(b) fighting in the hallway of the apartment building, she heard unfamiliar voices in the hallway, and opened her door to see two police officers and the door to § 87(2)(b)'s apartment open. § 87(2)(b) was unable to describe these officers, stating only that one might have been a black male. Because § 87(2)(b) was scared, she returned to her apartment.

§ 87(2)(b) opened her door again when many officers were in the building. She was unable to describe any of the officers, including whether they were in uniform or in plainclothes. Again because she was scared she quickly returned to her apartment and closed the door.

Through the entire night § 87(2)(b) only opened and closed her apartment door and never actually moved from her doorway down the hall. She is unable to see into § 87(2)(b)'s apartment from where she was standing in front of her own, and she never saw § 87(2)(b) that night. § 87(2)(b) reported that § 87(2)(b) and § 87(2)(b) fight about 3-4 times a year, and have been doing so since 2003. She stated that § 87(2)(b) acts out when he is using “dust.”

The same day that § 87(2)(b) received her “please call” letter from the CCRB, she saw § 87(2)(b) who informed her that she had also received a letter but refused to become involved. § 87(2)(b) also requested that she not be contacted again.

§ 87(2)(b)

§ 87(2)(b) was identified as a witness to the beginning of the incident by § 87(2)(b) and § 87(2)(b) but the investigation determined that she would not have witnessed any of the allegations § 87(2)(g). Regardless, because no phone number was provided for her, two “please call” letters were mailed to her address. The letters were not returned to the CCRB, indicating that they were delivered successfully by the post office. § 87(2)(b) never contacted the CCRB.

Officer Identification

§ 87(2)(b) BADS report (encl. 27B) showed that PO William Mattocks was § 87(2)(b) arresting officer, and the PSA 6 Roll Call (encl. 22A-E) identified Det. Severino Concordia as his partner. The Sprint showed that the following sectors responded to the incident: 32N, 32G and 28D. The 32nd Precinct Roll Call showed that PO Victor Adames and PO Peter Guido were assigned together to patrol sectors NP, while PO Christopher DeFlorio and PO Richard Pengel were assigned together to patrol sector G. Although the 28th Precinct Roll Call showed that PO Nathan Mole and PO William Coyle were assigned to sector D and therefore responded at some point to the location, PO Mattocks, Det. Concordia, PO Guido, PO DeFlorio and PO Pengel's statements all showed that they were the only officers involved in handcuffing § 87(2)(b). § 87(2)(b) § 87(2)(g). The subject officers' statements show that the additional responding officers (including PO Mole, PO Coyle and Truck 2 from ESU as per the Sprint and the ESU report) were not witnesses to the allegations. The Complaint Report showed that Lt. Kevin Fox was the supervisor on scene. Lt. Fox in turn identified PO Daniel Crisan and PO Syed Shah as additional officers who responded to the scene but who were not witnesses to the allegations.

Officer Statements

Det. Severino Concordia and PO William Mattocks (PSA 6)

Det. Severino Concordia was interviewed at the CCRB on March 20, 2007 (encl. 13F-H) and PO William Mattocks was interviewed at the CCRB on March 22, 2007 (encl. 12G-I). § 87(2)(g)

On August 13, 2006, Det. Concordia and PO Mattocks were in uniform, assigned to patrol sectors CD, assigned to a marked patrol vehicle #9737 and worked a tour of 2315 x 0750.

Det. Concordia's memo book entries (encl. 13 A-E): 0656: responded to § 87(2)(b) regarding 52 family (dispute); 705: 10-85, one under by PO Mattocks; 0730 to § 87(2)(b) regarding treatment right hand and arm; 0910: Treated and released.

PO Mattocks' memo book entries (encl. 12A-F): 0656: 10 52 at § 87(2)(b) c/v § 87(2)(b) § 87(2)(b) state defendant § 87(2)(b) want leave the house; 0707: one under at location § 87(2)(b) PO Mattocks; 0735: 10 84 at base; 0736: perp at § 87(2)(b) 1130: Deft back at house; 1315: Defendant back at § 87(2)(b) states he is asthmatic; 1351: back at base; 1355: started prints; 1415: Started movement slips; 1820 EOT.

At 6:56AM on August 13, 2006, a call came over for a domestic dispute at § 87(2)(b) in Manhattan. Because Det. Concordia and PO Mattocks were already at the location (although it was a different jurisdiction) they were the first to respond. Det. Concordia stated that they buzzed § 87(2)(b) and did not remember how they actually entered, while PO Mattocks stated that an individual was exiting the building, and permitted them entry. Neither officer reported problems with entering the private building; they then immediately began climbing the stairs to the second floor.

PO Mattocks stated that he first saw a woman § 87(2)(b) on the first floor landing who appeared to be on her way to work. The landings of the stairways are separated by a door from the hallway of each floor where the apartments are located. § 87(2)(b) told them, "I want this motherfucker out of my house, I can't take this shit any more. Take this motherfucker out of my house now." (Det. Concordia also stated that she said the above, but did not mention any profanity.) PO Mattocks asked her where he § 87(2)(b) was, and she stated that he was in the hallway; PO Mattocks did not interact with her further, although he described her as, "belligerent, highly upset, cursing, [and] very adamant about him § 87(2)(b) leaving the building."

By contrast, Det. Concordia stated that upon ascending the stairs, he first saw a Black male individual § 87(2)(b) and only later saw § 87(2)(b). Both officers were consistent in that § 87(2)(b) immediately stated that someone was smoking angel dust in the hallway. PO Mattocks stated that he was "shocked" by this, because angel dust had nothing to do with the dispute for which they had responded. He described § 87(2)(b) eyes as red and "glazed over." PO Mattocks reported that a janitor was also in the hallway.

Then Det. Concordia and PO Mattocks spoke with § 87(2)(b). Det. Concordia said things like, "What's going on, what's the problem, why don't you just leave the house, you can talk it over later. She wants you out of the house, why don't you pick up a few things and talk about it later." § 87(2)(b) refused to leave, was saying "weird things" and was "incoherent."

§ 87(2)(b) then started to walk into his small apartment. Det. Concordia stated that § 87(2)(b) was heading towards cabinets that he assumed were in a kitchen, and thought that § 87(2)(b) was possibly going for a knife or another weapon. Det. Concordia stated that PO Mattocks said, "Stay in the hallway, don't move, let me find out what's going on before you start moving off," and walked towards § 87(2)(b). On the other hand, PO Mattocks stated that before § 87(2)(b) had entered the apartment, § 87(2)(b) who was just inside of the apartment, swung his arm and hit PO Mattocks's hand. PO Mattocks then tried to place § 87(2)(b) under arrest, and he and § 87(2)(b) began "tussling" in the narrow hallway of the

apartment. By contrast, Det. Concordia stated that they began fighting after he and PO Mattocks had followed § 87(2)(b) into the apartment and PO Mattocks tried to grab him in order to bring him back outside into the hallway, and then they began struggling.

PO Mattocks stated that § 87(2)(b) threw him into the wall of the hallway, and as a result clothing and other objects fell on top of PO Mattocks. Det. Concordia was directly behind PO Mattocks, and was unable to move around PO Mattocks in the hallway in order to assist handcuffing § 87(2)(b). As he described it, PO Mattocks would grab § 87(2)(b) shoulder and arms, but “he slipped out, threw a punch at me, I dodged it.” Throughout, PO Mattocks continually instructed § 87(2)(b) “Turn around, let me get your hands.” PO Mattocks stated that § 87(2)(b) was “throwing punches, swinging his body, throwing his arms, using his weight.”

The hallway is tight, and the open door to the bathroom was to the right. As a result of the struggle, PO Mattocks and § 87(2)(b) fell into the bathroom, where Det. Concordia was able to assist PO Mattocks. § 87(2)(b) was “very strong” and resisted by not placing his arms behind his back. PO Mattocks somehow ended up in the bathtub of the bathroom, struggling with § 87(2)(b) and Det. Concordia radioed for further units because they needed assistance. In the small bathroom, they continued rolling around on the floor, trying to handcuff him. At another point, PO Mattocks and § 87(2)(b) were “toe to toe” with each other while PO Mattocks tried to turn § 87(2)(b) around and place handcuffs on him. The shower rod was pulled down and bathroom was generally “trashed” as a result of their struggle. Because PO Mattocks was becoming tired, he used his asp to strike § 87(2)(b) in the leg two or three times. § 87(2)(b) still refused to turn around. Then PO Mattocks looked at § 87(2)(b) face, and noticed that foam was dripping out of his mouth.

PO Victor Adames and another 32nd Precinct officer then arrived and rushed into the bathroom while another two officers remained in the hallway. The responding officers placed one handcuff on § 87(2)(b) and then PO Mattocks was able to get § 87(2)(b) other hand into position to be cuffed by Det. Concordia as § 87(2)(b) lay on the floor and Det. Concordia stood in the tub.

When Det. Concordia emerged from the bathroom he saw officers in the hallway and did not remember § 87(2)(b) ever being in the hallway. Although Det. Concordia originally stated that he and three other officers carried § 87(2)(b) outside because he was unwilling to walk, he later clarified that instead 32nd Precinct officers and ESU brought § 87(2)(b) outside by “dragging” him without specifying how. Det. Concordia remembered that § 87(2)(b) had no visible injuries, and could not recall if he was complaining of injuries. He did not remember if § 87(2)(b) was barefoot. PO Mattocks did not help to carry § 87(2)(b) out of the apartment. PO Mattocks remembered that § 87(2)(b) was only wearing socks, and that police supervisors were in the hallway of the second floor when he exited the apartment. Although § 87(2)(b) told PO Mattocks that § 87(2)(b) smokes angel dust, PO Mattocks had already assumed that § 87(2)(b) was using some kind of drug. § 87(2)(b) “irate” behavior also led Det. Concordia to believe that he was on drugs. Det. Concordia explained that he thought that it was weird that § 87(2)(b) came up to the officers and told them that someone else had been smoking angel dust when they were at the location for a family dispute in which he was involved. EMS brought § 87(2)(b) directly to § 87(2)(b) because he was acting “in a violent EDP manner.” PO Mattocks stated that § 87(2)(b) was yelling, cursing and belligerent, and continued foaming at the mouth even after he was cuffed. He said things such as, “Why are you fucking guys arresting me in my own house? Get the fuck out of my house.” PO Mattocks stated that, “At no point did he § 87(2)(b) stop fighting. He fought from the beginning to the end.” PO Mattocks did not see any visible injuries on § 87(2)(b) or hear him complain of any injuries.

Det. Concordia stated that at one point while they were at the location a lady who lived directly across from § 87(2)(b) opened the door a crack, and then closed it; he did not recall anyone else in the hallway. Det. Concordia did not recall why § 87(2)(b) did not want to leave the location, and remembered that the address of that apartment was listed on § 87(2)(b) ID. He did not see any officer ever touch § 87(2)(b) and she never said anything about an order of protection. PO Mattocks stated that § 87(2)(b) never entered the apartment, although he heard her saying things like, “I don’t want him § 87(2)(b) arrested.” PO Mattocks was never able figure out exactly why § 87(2)(b) wanted § 87(2)(b) to leave. § 87(2)(b) never said anything to PO Mattocks about an order of protection or showed him any papers.

Det. Concordia hit his hand on something while they had been struggling in the bathroom, and as a result his hand felt numb and he thought that he might have hit a nerve. Therefore he went straight to § 87(2)(b) and did not accompany § 87(2)(b) elsewhere. PO Mattocks sustained a stubbed finger for which he sought medical treatment and therefore also did not go with § 87(2)(b) to the hospital.

PO Mattocks later discovered that ESU, who had responded with the other units, had broken down the door to the apartment building in order to enter because it was locked. Det. Concordia stated that the officers only touched § 87(2)(b) arms in order to bring them behind his back, that he never hit or punched § 87(2)(b) and that he never saw any other officer hit or punch him. PO Mattocks described himself as, "the principal person who was trying to subdue him for the first 5-8 minutes of the altercation." He also stated that he was the only officer who used an asp and that Det. Concordia was only trying to grab § 87(2)(b) arms. When the injuries sustained by § 87(2)(b) were described, PO Mattocks stated that they were probably a result of him resisting arrest, and that he had probably made contact with § 87(2)(b) ribs in the course of placing him under arrest.

PO Mattocks originally made the decision to place § 87(2)(b) under arrest because § 87(2)(b) resisted and then caused the police to become injured. § 87(2)(b) was handcuffed 8-10 minutes after he swiped PO Mattocks' hand. PO Mattocks added on the arrest report he prepared for § 87(2)(b) that the defendant refused to comply with a lawfully given order, attempted to prevent PO Mattocks from conducting an investigation and violently resisted arrest (encl. 27B). The narrative of the Complaint Report as prepared by PO Mattocks was consistent with the above (encl. 26A-B).

PO Victor Adames, PO Peter Guido, PO Christopher DeFlorio and PO Richard Pengel (32nd Precinct)

PO Victor Adames was interviewed at the CCRB on April 27, 2007 (encl. 14D-E), PO Peter Guido was interviewed at the CCRB on May 10, 2007 (encl. 15F-G) PO Christopher DeFlorio was interviewed at the CCRB on May 25, 2007 (encl. 16A-B) and PO Richard Pengel was interviewed at the CCRB on May 24, 2007 (encl. 17D-E). § 87(2)(g)

PO Adames' memo book entries (encl. 14A-C): 0705: 85 § 87(2)(b); 0740: 98.
PO Guido's memo book entries (encl. 15A-E): 0705: 85 PSA6 § 87(2)(b); 0740: 1 under by PSA6.
PO Pengel's memo book entries (encl. 17A-C): 0659: 1097H to H. H.
PO DeFlorio did not bring his memo book to his CCRB interview and it was never provided.

On August 13, 2006, all four officers were in uniform, assigned to marked patrol cars and worked tours of 2315 x 0750. PO Adames and PO Guido were assigned together to patrol sectors NP, while PO DeFlorio and PO Pengel were assigned together to patrol sector G.

At 7:05AM, PO Adames, PO Guido, PO DeFlorio and PO Pengel received a call for assistance from housing officers at § 87(2)(b), and both sectors immediately responded to that location and arrived at the same time. The officers were unable to enter the lobby of the building immediately because no one was answering the door or the buzzer and therefore PO Pengel hit the glass directly next to the door with an asp and broke it. Then either PO DeFlorio or PO Pengel kicked out the glass, gaining them entry to the lobby. As the officers ran inside, the sound of the housing officers yelling was audible and people coming down to the lobby and on the first floor pointed up to the second floor, indicating the source of the fight.

The door to the apartment was already open, and PO Adames could not recall if they knocked or just entered the apartment, although he remembered he entered the apartment first, followed by the other officers. A female § 87(2)(b) in the hallway of the apartment immediately approached the officers and prevented them from entering a bathroom where the housing officers were located by blocking the bathroom door. PO Adames could not remember if § 87(2)(b) was saying anything; while PO DeFlorio reported that she was yelling, although he did not know what she was yelling about. PO Adames and PO

DeFlorio stated that PO Adames pushed § 87(2)(b) onto a bean bag in order to gain access to the bathroom, while PO Pengel and PO Guido stated that § 87(2)(b) was never pushed.

PO Pengel was unable to enter the bathroom or see what happened inside because the bathroom was very small and he could not fit. PO Guido, PO Adames and PO DeFlorio found the perpetrator § 87(2)(b) in the bathtub fighting with Det. Severino Concordia and PO William Mattocks, who were trying to place him into custody. PO Adames specified that § 87(2)(b) was swinging at Det. Concordia and PO Mattocks, while PO Guido stated that § 87(2)(b) never swung at the officers, but rather was resisting by flailing his arms, throwing his body around and refusing to be handcuffed. PO Guido, PO Adames and PO DeFlorio immediately entered the bathroom and tried to help the housing officers get § 87(2)(b) under control. The bathroom was so small that it was difficult to move.

PO DeFlorio stated that § 87(2)(b) held onto a shower curtain with one hand and swung the other at the officers, hitting PO DeFlorio as they tried to restrain him by grabbing his arms. PO Guido stated that § 87(2)(b) then grabbed onto some rods that were in the bathroom and fell forward into the bathtub, where he pulled his arms underneath his stomach so that the officers were unable to grab his arms. PO DeFlorio, PO Adames and PO Guido all stated that they continually issued him instructions such as, “Stop resisting arrest; put your hands behind your back,” and “Give us your hands.” § 87(2)(b) never complied.

At one point, while § 87(2)(b) held an exposed pipe with his right hand and the shower rod with his left, PO Guido was able to cuff § 87(2)(b) right wrist and subsequently gained control of one arm. PO Guido then tried and failed to remove § 87(2)(b) hand from the pipe, on which he had a “really strong grip.” PO Adames corroborated that the officers were unable to bring the other arm back to secure the other handcuff. In order to remove § 87(2)(b) hand from the pipe, PO Guido and PO Adames stated that they used physical force: PO Guido hit § 87(2)(b) arm with his arm a few times and PO Adames used his asp and hit § 87(2)(b) three or four times about the mid-section until they were able to remove his arm from the pipe. PO Adames did not believe that he hit § 87(2)(b) anywhere else besides his midsection and was not sure if any other officer also hit § 87(2)(b) with an asp or anything else.

PO Guido described the struggle as that the officers were “literally bouncing off of the walls.” PO Guido, PO Adames and PO DeFlorio reported that various items were knocked down, including the curtains, the curtain rod, and cabinet and bathroom tiles. Everyone in the bathroom was involved in the struggle. PO Guido and PO DeFlorio stated that after they finally were able to gain control of § 87(2)(b) other arm, he was handcuffed lying face down on the bathroom floor. By contrast, PO Adames stated that § 87(2)(b) was handcuffed standing up because there was not enough room for anyone to lie down in the bathroom.

While the other officers were fighting with § 87(2)(b) PO Pengel stated that § 87(2)(b) tried twice to gain access to the bathroom. PO Pengel asked her several times to step back and she subsequently went out into the hallway where other civilians stood. PO Pengel did not interact with § 87(2)(b) after she left the apartment, and PO Guido and PO DeFlorio never interacted with § 87(2)(b) at all. PO Pengel focused on keeping § 87(2)(b) out of the bathroom and keeping other people from entering the apartment. Although PO Pengel did not say that people actually tried enter the apartment he still instructed the people standing outside to, “Get back, get back.”

All of the officers involved in the fight believed § 87(2)(b) to be on some type of drug. PO Adames explained that § 87(2)(b) was probably “on something” because he “was going crazy in the bathroom... they couldn’t restrain him to put cuffs on him.” PO DeFlorio, who had been a paramedic for 10 years, added that § 87(2)(b) was combative, fighting and struggling with them, and added that he was incredibly strong and his eyes were “dull, blank.” PO Guido also stated that he believed that § 87(2)(b) was on drugs because of the struggle, his energy, and his wide eyes. PO Guido explained that while he and the other officers were becoming winded from the struggle with § 87(2)(b) § 87(2)(b) spoke clearly to them as if he was not tiring. None of the officers were able to specify the type of drug § 87(2)(b) might have used.

§ 87(2)(b) was brought out of the apartment and outside; none of the officers recalled which officers assisted. PO DeFlorio did not help to escort § 87(2)(b) outside. PO Guido only saw additional officers in the hallway and that when § 87(2)(b) was in the hallway, “he went limp and got tired.” PO Guido was

present as § 87(2)(b) was brought downstairs and outside but did not recall if he or which officers assisted, and did not recall if he was able to walk voluntarily or if he was barefoot or in socks. PO Adames was unable to recall any details from the time § 87(2)(b) was handcuffed to when he was outside, but remembered that as soon as § 87(2)(b) walked outside of the building he was “spent... he finally stopped... he was tired, he was done.” PO Adames did not remember the walk downstairs with § 87(2)(b) but stated that § 87(2)(b) walked voluntarily.

When PO Pengel exited the building ESU was outside, although he did not know when they came. PO Pengel never interacted with ESU, leaving with PO DeFlorio after an ambulance responded to the scene. PO Adames also resumed patrol. None of the officers knew anything about the original job or had heard anything about an order of protection.

PO Adames, PO Guido and PO DeFlorio did not see any physical injuries on § 87(2)(b) as a result of the incident, and did not recall if § 87(2)(b) was barefoot or had bloody feet. PO Guido did not recall if § 87(2)(b) ever foamed at the mouth. PO Pengel stated that he left the building before § 87(2)(b) and did not see him after, and was therefore unable to determine if he had any visible injuries.

PO Adames, PO Guido, and PO DeFlorio remembered that an officer (they did not recall who) sustained unspecified injuries as a result of the incident and subsequently went to the hospital. PO DeFlorio received a cut on his arm although he never sought medical attention for it, and PO Guido, PO Adames, and PO Pengel were not injured.

Although PO Guido stated that he hit § 87(2)(b) arms, he stated that he never hit § 87(2)(b) in his midsection, did not see any other officer hit him in his midsection and that one of the officers may have taken out his asp but he was not sure. PO Adames stated that he hit § 87(2)(b) with his asp on his midsection. PO DeFlorio stated that it was never necessary for any of the officers to hit § 87(2)(b) and throughout they were only trying to grab his arms and “bend his arms behind his back.” PO DeFlorio never punched or hit § 87(2)(b) midsection, ribcage or body and never saw another officer punch or hit him.

Lt. Kevin Fox (PSA 6)

Lt. Kevin Fox was interviewed on May 8, 2007 (encl. 18E-F). On August 13, 2006, Lt. Fox was the first platoon commander and the patrol supervisor, and worked a tour of 2300 x 0735. He was in uniform and worked with PO Yevgeniy Varshavskiy until PO Varshavskiy made an arrest at 0630, at which point Lt. Fox drove by himself without an operator. Lt. Fox was assigned a marked patrol vehicle, #9705, and had no entries in his memo book regarding the incident.

At approximately 6:55AM on August 13, 2006, Lt. Fox was in VIPER in the 26th Precinct doing roll call for the day tour, when he heard a call for assistance from § 87(2)(b) where officers were fighting with an individual they were trying to arrest, and he responded to the location. Upon arriving at the location, Lt. Fox found the subject § 87(2)(b) already in custody and inside of a 32nd Precinct squad car. Also at the location were 32nd Precinct officers, a 32nd Precinct sergeant (he did not recall who), PO William Mattocks, Det. Severino Concordia, PO Shah, PO Crisan, ESU and Nightwatch, a detective group that works the night tour.

Lt. Fox made the decision to send § 87(2)(b) to § 87(2)(b) because the information given to him by PO Mattocks and Det. Concordia led him to believe that, “he § 87(2)(b) was out of his mind.” PO Mattocks and Det. Concordia had informed Lt. Fox that § 87(2)(b) had been screaming that there was a woman doing angel dust in the hallway, that he had been acting “erratically, and he was crazy.” Lt. Fox stated that § 87(2)(b) did not seem injured but rather was “out of it” and on some kind of drug. Lt. Fox believed that § 87(2)(b) may have been on angel dust because the arresting officers informed him that § 87(2)(b) had mentioned it. Lt. Fox did not recall if § 87(2)(b) was foaming at the mouth, had any visible injuries to his feet, or walked voluntarily to the ambulance. Lt. Fox could not recall which officers transported § 87(2)(b) to the hospital.

Lt. Fox entered the apartment building and spoke with the woman who had originally placed the call § 87(2)(b) in the hallway of the 2nd Floor and also inside of her apartment. He described the apartment as “a little disheveled” and “very very cramped,” and did not recall entering the bathroom. Lt. Fox remembered that § 87(2)(b) was upset that § 87(2)(b) had been arrested, although he was unable to recall the actual words of the conversation. § 87(2)(b) did not say anything about being pushed or injured, and he could not recall if anything was said about an order of protection.

Lt. Fox stated other civilians may have been around (he was not sure), but he did not speak with anyone besides § 87(2)(b). While inside of the building he saw a few officers from ESU and Nightwatch, but he walked around by himself.

Some officers went LOD, and Lt. Fox arranged for a relief for them. At some point prior to his arrival, he knew that ESU had forced an entry by breaking a side panel in the front lobby door because officers responding to the 85 had been unable to enter the building. Lt. Fox was at the location in total for only a few minutes.

Officers Not Interviewed

PO Daniel Crisan, PO Syed Shah, PO Nathan Mole, PO William Coyle and the members of ESU Truck 2 including Det. Walter Szachacz were not interviewed because they did not witness the allegations § 87(2)(g)

Ambulance Call Report

The Ambulance Call Report shows that on August 13, 2006 at 7:34AM § 87(2)(b) was transported, handcuffed, by PO Daniel Crisan and two EMS workers to an unspecified hospital for a cut on his left foot (encl. 19A-D).

Medical Records

On August 13, 2006 at 7:59AM § 87(2)(b) was treated at § 87(2)(b) (encl. 20A-J). He stated that he was dragged out of his house by the police. His complained of a cut on his toe and lower back pain, and was subsequently diagnosed with a ½ cm. laceration on the middle of the third toe on his left foot. He was treated again at § 87(2)(b) that same day at 1:32PM for asthma.

NYPD Documents

Roll Calls

The roll call for tour 1 of PSA 6 on August 13, 2006 shows that Lt. Kevin Fox was the platoon commander and assigned to vehicle #9607 with PO Yevgeniy Varshavskiy, Det. Severino Concordia and PO William Mattocks were assigned to patrol sectors CD in vehicle number #9737 and that PO Daniel Crisan and PO Syed Shah were assigned to patrol sectors EF in vehicle #9723 (encl. 22A-E).

The roll call for tour 1 of the 32nd Precinct shows that PO Christopher DeFlorio and PO Richard Pengel were assigned to patrol sectors GHI in vehicle #2345, and the PO Victor Adames and PO Peter Guido were assigned to patrol sectors NP in vehicle #1763 (encl. 23A-E).

The roll call for tour 1 of the 28th Precinct shows that PO Mole and PO Coyle were assigned to patrol sectors DE in vehicle #1991 (encl. 24A-H).

Sprint #§ 87(2)(b)

The Sprint shows that at 6:55AM on August 13, 2006, an individual used § 87(2)(b) phone at § 87(2)(b) to call 911 for a domestic dispute, without providing further specification (encl. 21A-E). The following sectors responded at some point: 32N, 32G, 28D and ESU. A unit in car #9737 responded at 6:59AM. At 7:07AM the door was taken by ESU Truck 2. At 7:07AM sector D stated that no further units were necessary, requested a bus to the location and also that the perpetrator had minor injuries and one

police officer had minor injuries to his hands. EMS arrived at 7:19AM. The incident was marked as a Family Arrest at 8:47AM.

The Complaint Report was prepared by PO William Mattocks (encl. 26A-B). The victim of the domestic dispute was § 87(2)(b) who intended to prosecute.

The Command Log for PSA 6 shows that on August 13, 2006, § 87(2)(b) was arrested by PO William Mattocks at § 87(2)(b) and charged with § 87(2)(b) (encl. 22F). His mental condition was described as an EDP, and the remarks show that § 87(2)(b) was directly taken to § 87(2)(b) from the scene, and then taken to the hospital for a second time at 1315.

The ESU report was prepared by Det. Walter Szachacz and states that ESU Truck #2 responded to a 10-13 at 0700 on August 13, 2006 (encl. 25C). Upon arrival a ground floor lobby side door was “taken” to open the front door, and ESU found the perpetrator § 87(2)(b) and police officers fighting. § 87(2)(b) was finally handcuffed and Det. Severino Concordia was transported to § 87(2)(b). ESU completed the assignment at 0745 hours. The precinct reporting officer was Lt. Kevin Fox from the 32nd Precinct.

PO William Mattocks arrested § 87(2)(b) at 7:07AM on August 13, 2006 and charged him with § 87(2)(b) (encl. 27B). Physical force was used to overcome assault.

Jeanine Quijije stated that a Notice of Claim was never filed by § 87(2)(b) regarding this incident.

§ 87(2)(b) § 87(2)(c)

[REDACTED]

§ 87(2)(b) § 87(2)(c)

§ 87(2)(b) § 87(2)(c)

Lastly, he was arrested on August 13, 2006 (Arrest ID § 87(2)(b) in regards to this incident; § 87(2)(b) § 87(2)(c)

Civilians' CCRB History

§ 87(2)(b) has not filed any other CCRB complaints (encl. 6A).

Officers' CCRB History

PO William Mattocks has no substantiated CCRB complaints, and has been a member of the NYPD for 1 year (encl. 1A). Det. Severino Concordia has no substantiated CCRB complaints, and has been a member of the NYPD for 16 years (encl. 2A). PO Christopher DeFlorio has no substantiated CCRB complaints and has been a member of the NYPD for 3 years (encl. 3A). § 87(4-b), § 87(2)(g)

PO Guido has been a member of the NYPD for 8 years. PO Victor Adames has one substantiated CCRB complaint (200403550), in which he received instructions for threatening to arrest an individual (encl. 5A). He has been a member of the NYPD for 7 years.

Conclusions and Recommendations

Disputed Facts

All of the facts are in agreement except for whether or not § 87(2)(b) hit PO William Mattocks in the hallway of the building or inside of the apartment, and the extent of the physical force used by the officers in the bathroom.

Assessment of Evidence

§ 87(2)(b) and Det. Severino Concordia both stated that § 87(2)(b) entered the apartment and PO Mattocks simply followed him inside and then grabbed § 87(2)(b) in order to pull him back out into the hallway, while PO Mattocks stated that § 87(2)(b) hit him prior to entering the apartment. By all accounts, PO Mattocks was the officer who interacted with § 87(2)(b). § 87(2)(b) did not even describe a second officer (Det. Concordia) arriving with PO Mattocks until all of the responding officers entered the bathroom. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

The officers all alleged slightly different degrees of force, from PO DeFlorio stating that the officers were simply trying to grab § 87(2)(b) arms to PO Mattocks' and PO Adames' use of their asps. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) stated that the officers punched him primarily in the ribs, and even when explicitly asked, he did not recall any officer using his asp. The only officer to describe hitting his mid-section was PO Adames, who stated that he used his asp to hit § 87(2)(b) midsection. All of the other officers describe the force used as making contact with his arms and legs, which is not alleged by § 87(2)(b). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegations Not Pleaded

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: PO William Mattocks used physical force against § 87(2)(b)

Allegation B: Det. Severino Concordia used physical force against § 87(2)(b)

Allegation C: PO Victor Adames used physical force against § 87(2)(b)

Allegation D: PO Peter Guido used physical force against § 87(2)(b)

Allegation E: PO Christopher DeFlorio used physical force against § 87(2)(b)

§ 87(2)(b) stated that he ran inside of § 87(2)(b)'s apartment and into the bathroom, followed by PO William Mattocks, who immediately grabbed his right arm and tried to pull him out of the bathroom. Additional officers soon entered the bathroom, and § 87(2)(b) held the shower curtain rod and towel rod to prevent them from removing him from the bathroom. The officers then tried to pull him out of the bathroom, and over the course of 20 minutes punched him 45-50 times with their fists mostly on the left side of his rib cage. Throughout, § 87(2)(b) informed the officers that he was not going to leave the apartment, and only permitted the officers to restrain him after an officer handcuffed one of his wrists.

PO Mattocks alleged that § 87(2)(b) hit his arm and he and Det. Concordia stated that PO Mattocks grabbed § 87(2)(b) and they then began struggling in the hallway of the apartment. From that moment until he was handcuffed, all of the officers stated that § 87(2)(b) never stopped struggling. PO Victor Adames, PO Peter Guido and PO Christopher DeFlorio soon responded to Det. Concordia's call for assistance and assisted PO Mattocks and Det. Concordia; all corroborated PO Mattocks and Det. Concordia's reports of § 87(2)(b) behavior. All stated that they instructed § 87(2)(b) to stop resisting and to place his arms behind his back; he remained uncooperative and never voluntarily complied. PO Guido stated that he eventually handcuffed § 87(2)(b) right wrist, and then in order to make § 87(2)(b) remove his other hand from a pipe hit § 87(2)(b) arm with his arm a few times and PO Adames also stated that he used his asp and hit § 87(2)(b) three or four times about the mid-section. Before the additional officers responded, PO Mattocks stated that he also used his asp to strike § 87(2)(b) in the leg two or three times. PO DeFlorio stated that it was never necessary for him or any of the officers to hit § 87(2)(b) and that throughout they were only trying to grab his arms and put them behind his back to handcuff him.

By § 87(2)(b) own statement he refused to allow the officers to handcuff him and never complied with the officers' instructions, but never hit an officer. § 87(2)(b) medical records from the date of incident show that he complained of a cut on his toe and lower back pain, and was subsequently diagnosed with a ½ cm. laceration on the middle of the third toe on his left foot, which from § 87(2)(b) statement was sustained after he walked barefoot on glass. The medical records do not describe any type of injury sustained to his ribs or mid-section, although § 87(2)(b) described "possible broken ribs" as his primary injury in all of his CCRB statements, § 87(2)(g)

The physical force used by the officers from their own statements varies from grabbing § 87(2)(b) arms to punching his arms and hitting his midsection and legs with an asp. All of the officers are consistent in that § 87(2)(b) resisted and never voluntarily complied with their orders, prompting them to use the above physical force in order to handcuff him. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: